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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,733	11/21/2001	Gregory D. Johnson	13190.101	9460
24283	7590	01/10/2007	EXAMINER	
PATTON BOGGS 1660 LINCOLN ST SUITE 2050 DENVER, CO 80264			ART UNIT	PAPER NUMBER

DATE MAILED: 01/10/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Notification of Non-Compliant Appeal Brief</b> <b>(37 CFR 41.37)</b>	<b>Application No.</b> 09/993,733	<b>Applicant(s)</b> JOHNSON, GREGORY D.	
	<b>Examiner</b> Walter B. Aughenbaugh	<b>Art Unit</b> 1772	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 18 October 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

Continuation of 10. Other (including any explanation in support of the above items): In regard to item 4, the summary does not contain a concise explanation of the subject matter defined in each of the independent claims because the summary includes discussion of subject matter that is not recited in the independent claims: for example, none of plates 30, assembly 90 and sheet 40 are subject matter of the independent claims. Appellant's discussion of HDPE is not summary of the invention and appears to be an argument that is not appropriate for the Summary section, but for the Argument section. Appellant's discussion of claim 39 does not include reference characters. The summary of claim 39 is incomplete because the claim recites a range of 32% to 70%, not a sole value of 32% as described in the summary.

In regard to the Grounds of Rejection section, Appellant's statement of Ground of Rejection #2 is incorrect: claims 39-41 are not rejected over Sobolev in view of Fitzgerald. Appellant identifies the "Office Action of August 4, 2004" as "[t]he pertinent Office Action" in footnote 2 on page 3 of the Brief, but this identification is incorrect: there have been three Office Actions issued since the Office Action mailed August 4, 2004, not including the Advisory Action mailed July 13, 2006.

Appellant's statement on pages 6 and 8 of the Brief that claim 42 is rejected under 35 USC 112 is incorrect.

In regard to item 6, Appellant improperly presents arguments regarding a rejection on pages 9-11 of the Brief since these arguments are not placed under a heading that identifies the rejection. 37 CFR 41.37(c)(1)(vii).

Appellant has provided an incomplete copy of claim 39 on pages 27-28 of the Brief since the claim recites a range of 32% to 70%, not a sole value of 32% as described in the summary.

Walter B. Aughenbaugh  
01/08/07

